

Attorney Docket No.: 10121-01301

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REMARKS

Claims 14-21 have been cancelled. No new matter has been added. Claims 1, 6, 9, 12 and 22 have been amended. Thus, Claims 1-13 and 22-25 remain pending in this application. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable. In response to the restriction requirement, the Applicants respectfully withdraw claims 14 - 21 from further consideration.

Claims 1, 2, 4, 5 and 7-10 stand rejected under 35 U.S.C. § 102(b) as anticipated by Richter (European Patent No. EP 0976417A).

Amended claim 1 recites an endoluminal access system comprising "a modular device selectively coupleable to [a] guide track, the modular device including a drive mechanism for engaging the guide track to move the modular device along the guide track within the body lumen" and "an anchoring module *selectively coupleable* to the guide track for anchoring the guide track at a desired location within the body lumen."

Applicants respectfully submit that Richter fails to teach or suggest an "anchoring module selectively coupleable to the guide track for anchoring the guide track at a desired location within the body lumen," as recited in claim 1 and further described in dependent claims 9 - 13.

In contrast, Richter shows only a motor 1 disposed around a guide wire 2 including no mechanism for maintaining the device in place within a body lumen. It is therefore respectfully submitted that when Richter states that the guide wire is "secured" absolutely no mention is made of any anchoring of this guide wire within a body lumen and that it is to be understood that the guide wire is secured at a desired position in a conventional manner – i.e., by anchoring a portion of the guide wire extending out of the body so that it does not move relative to the body.

Accordingly, Applicants respectfully submit that Richter fails to show or suggest the anchoring module recited in claim 1 and that the rejection under 35 U.S.C. § 102(b) should be withdrawn. Because claims 2, 4, 5 and 7-10 depend from and include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

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Claims 1, 4, 5, 8, 12 and 13 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,571,114 to Devanaboyina.

As stated above, claim 1 recites an endoluminal access system comprising “a modular device selectively coupleable to [a] guide track, the modular device including *a drive mechanism for engaging the guide track* to move the modular device *along the guide track* within the body lumen” and “an anchoring module *selectively coupleable* to the guide track for anchoring the guide track at a desired location within the body lumen.”

In contrast, Devanaboyina purports to teach a device which never engages a guide track to move along the guide track through a body lumen. Specifically, Devanaboyina describes an elongate device including a sliding sheath comprising a loop of film, chain or linked material anchored thereto and which, when rotated, contacts a surface of a body lumen in which the device is located to drag the elongate device. (Devanaboyina, col. 2, ll. 25 – 52). The drive mechanism of Devanaboyina never engages a guide track and includes certainly includes no modular device “selectively coupleable to a guide track. Specifically, the sliding sheath of Devanaboyina is permanently mounted around anchors at the proximal and distal ends of the elongated device and the sheath and the elongated device move together through the lumen – the device never moves along the sheath. In fact, although the elongated device moves in a first direction relative to the side of the sheath contacting the luminal wall, it moves in the opposite direction relative to the half of the sheath which faces the elongated device. Thus, the relative movement of these two halves of the sheath cancel each other out and the overall movement of the sheath is the same movement into or out of the lumen along with the elongated device – there is no relative movement between the sheath and the elongated device.

In light of the above, it is respectfully submitted that Devanaboyina neither shows nor suggests either a modular device “selectively coupleable” to a guide track or “*a drive mechanism for engaging the guide track* to move the modular device *along the guide track* within the body lumen,” as recited in claim 1 and that the rejection under 35 U.S.C. § 102(b) should be withdrawn. Because claims 4, 5, 8, 12 and 13 depend from and

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therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Claims 3 and 11 - 13 stand rejected under 35 U.S.C. § 103(a) as obvious over Richter in view of U.S. Patent Application No. 5,167,239 to Cohen et al. ("Cohen") (12/27/06 *Office Action*, pg. 6).

As previously discussed, Richter does not disclose an anchoring module as recited in claim 1. Cohen does not cure this deficiency. Therefore, it is respectfully submitted that Richter and Cohen, alone or in combination, do not disclose or suggest the inventions recited in claims 3 and 11 - 13 which depend from claim 1. It is therefore respectfully submitted that these claims are allowable for at least the reasons stated above in regard to claim 1.

Claims 22 - 25 stand rejected under 35 U.S.C. §103(a) as obvious over Richter in view of U.S. Patent Application No. 2002/0065523 to McAlister et al. ("McAlister") (12/27/06 *Office Action*, pg. 6).

Claim 22 recites a method of resecting tissue comprising "inserting a guide track to a desired location within the body lumen" and "anchoring the guide track at a desired location within the body lumen" in combination with "coupling a modular device to a proximal end of the guide track" and actuating a motor mounted within the modular device to drive the modular device distally along the guide track to the site." Claim 22 further recites drawing tissue into the modular device and coupling together a portion of tissue adjacent to the site and resecting the tissue from the site.

As previously discussed, Richter neither discloses nor suggests anchoring the guide track within a body lumen, as recited in claim 22. McAlister does not cure this deficiency. Therefore, it is respectfully submitted that Richter and McAlister, taken either alone or in combination, do not disclose or suggest the invention recited in claim 22 and that claim 22 is allowable for at least the reason stated above. Because claims 23 - 25 depend from, and, therefore, include all of the limitations of claim 22, it is respectfully submitted that these claims are also allowable.

Claims 12 and 13 stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. (12/27/06 *Office Action*, pg. 7.) Specifically, the Examiner asserts that claim

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12 references a second extendible member where no first extendible member has been referenced. Applicants respectfully submit that Claim 12 has been amended to eliminate this error and that these claims are now in compliance with § 112.

The Examiner objected to claim 6 as dependent on a rejected base claim, but indicated that the claim is otherwise allowable. As claim 6 has been rewritten in independent form, it is respectfully submitted that claim 6 is allowable.

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, and an early and favorable action on the merits is earnestly solicited.

Respectfully Submitted,

Dated: 2/6/07By: 

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